

From Wai to Waiwai

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In 2010, my essay in the first *Value of Hawai‘i* pondered “Aia i hea ka wai a Kāne? Where are the waters of Kāne, the waters of life?” This traditional mele from the Island of Kaua‘i celebrates fresh water’s invaluable role as a kinolau (physical embodiment) of akua Kāne (one of the four akua of the Maoli pantheon) and the very lifeblood of Hawai‘i’s land, culture, and Indigenous People. Starting with this mele framed wai as waiwai (wealth), so that our community would respect fresh water as the life-giving resource that it is, rather than simply as a commodity. I also traced the decline in Hawai‘i’s wai, due largely to centuries of “extraction” management by plantation agriculture, which is exacerbated by global warming.¹ Despite decreasing supplies and lax commitment to monitoring and proactive management, demand had continued to climb, as a privileged few appeared content to take from our common heritage without ensuring that resources could sustain such withdrawals. I lamented the entitlement and gamesmanship of Hawai‘i’s post-plantation economy, and resource managers’ lack of resolve to make the decisions necessary to restore balance for Native Hawaiian communities in particular. Given sugar’s decline, revisiting the siphoning of streams and groundwater to subsidize industrial agriculture was just common sense. But powerful corporations and political interests had other priorities. It was as simple and as complex as that.

Despite the challenges of this quest for pono, in 2010, I had hope for the future. I noted how years of private appropriation inspired the 1978 constitutional amendments and 1987 Water Code—Hawai‘i Revised Statutes chapter 174C. Despite the lack of financial and human resources at the Commission on Water Resource Management (the “Water Commission”), the entity charged with bringing the law to life on the ground and in our communities, I emphasized the law’s *potential*. The Commission’s own lack of political will had provoked litigation, and I highlighted struggles in Waiāhole, O‘ahu and Nā Wai ‘Ehā, Maui, where communities rose up and deployed the law’s power successfully to secure some measure of justice for fresh water resources, and the communities and cultures depending on them. Though decisionmakers clung to the vestiges of plantation agriculture despite widespread closures and a slide towards urban development, communities legally forced decisionmakers’ hands. After over a century of diversions, protracted litigation in Waiāhole, Nā Wai ‘Ehā, and elsewhere restored water to streams, confirming that the public trust doctrine was Hawai‘i’s law of the land. Under the

constitution, the Water Commission holds fresh water resources in trust—not for any individual or company, but for present and future generations.

Then battles raged on O‘ahu and Maui. Today, attention has shifted to Kaua‘i, Moloka‘i, and Hawai‘i island in particular, and expanded to include groundwater. The Water Commission has embraced some change. Better educated and culturally grounded commissioners and staff, including Native Hawaiians, have been more proactive. For example, for the first time the Commission initiated minimum flow standards for streams on Maui, Kaua‘i, and Hawai‘i island *without* the threat of litigation. In Waimea, Kaua‘i, proceedings over minimum flow standards were resolved *without* an extended trial. These are small but positive steps in the right direction. But other issues remain, with both the Water Commission and its sister agency, the Land Board, including litigation over East Maui’s water.

In 2010, I called for investment in Hawai‘i’s wai, and urged readers to look beyond the law to ensure that resources are protected into the future. Community members cannot rely on government agencies alone for action, and individuals and decisionmakers must dig deep to find the political will to move beyond the plantation past. Some redistribution of resources is necessary. Streams must be restored, uses made more efficient, and alternative sources—such as brackish or reclaimed water—developed and utilized. A decade ago, we had the technological capacity and social responsibility to do more with less, so that Hawai‘i’s natural systems and cultural practices dependent upon them—Indigenous and local—could endure. That capacity and responsibility has only increased.

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Although it dominates this era, COVID-19 is only the latest malady to visit Hawai‘i’s shores. Kānaka ‘Ōiwi endured devastation by western-introduced diseases since the late 1700s, so Native Hawaiians and others already familiar with genocide know to take pandemics seriously. In 2020, as COVID-19 ravages the world with no signs of slowing, we in Hawai‘i must forge our own path forward. Life as we knew it in December 2019 will not return for a long time—or at least not until a vaccine is available to all. COVID-19 has laid bare Hawai‘i’s vulnerabilities, and especially our dependence upon things beyond our shores—tourists, airlines, multinational corporations, governments, the military, and more. But during a global pandemic, Hawai‘i’s isolation can and should be our strength. We must fix what’s broken, and give Hawai‘i the best chance of ensuring that management decisions and implementation funding are determined by needs, culture, science, and policy, instead of mere politics.

Just as the Black Lives Matter movement drew attention to the structural and institutional racism undergirding American society, COVID-19 should inspire Hawai‘i to take its own sobering look at how colonization’s legacy still controls our land and water resources. By definition, colonization involves appropriating then

controlling a place and its resources for one's own use. Never OK, this happened quite often, and its influence continues. Perhaps one silver lining of COVID-19 is that it can embolden resource managers to finally manage wai proactively as waiwai, for the benefit of all of Hawai'i's present and future residents. The Water Code and Commission have had the necessary legal and adaptive management frameworks in place for decades. What has been missing is leadership and funding.

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In 2020, our natural and cultural treasures, and wai and waiwai in particular, remain largely in the hands of plantation descendants or their beneficiaries. Two centuries after the missionaries' arrival, and the subsequent explosion of sugar plantations and industrial agriculture, it is past time to rewrite Hawai'i's social contract. Plantations once used public trust resources for private gain, in exchange for community "benefits." That contract overlooked harm to natural resources, workers' rights, and Indigenous communities and culture. That era has ended; or, should have.

Hawai'i's last sugar plantation shuttered operations on Maui in 2016. Yet from Hawai'i island to Kaua'i, the ditch systems that transported water across ahupua'a (watersheds) and entire islands remain in place. In some areas, such as on Kaua'i, plantation descendants still control vast tracts of land and the water infrastructure that feeds them. On Moloka'i and Maui, companies bought former sugar, pineapple, or ranch lands and their irrigation systems, including wells. Farms are planned in some areas; developments in others. Both could perpetuate colonization's legacy. With respect to natural and cultural resources and Indigenous rights, Hawai'i's laws are grounded in restorative justice, but they must be brought to life in our communities. Decisionmakers must harness the courage to do what justice and our resources require. These are not mutually exclusive. Business cannot continue as usual.

In this era of the virus, decisionmakers must invest in Hawai'i's waiwai by redistributing fresh water, and managing and protecting resources in response to a warming planet. Streams must be restored to recharge related ground water supplies, especially those overlying aquifers that supply drinking water. As Hawai'i's trustee of wai, the Water Commission has the legal and moral authority to initiate such actions by mandating the abandonment of relic plantation systems no longer being used, rather than allowing them to be banked for future development. If systems do remain in place, they must be maintained and meet safety standards. Reservoirs, for instance, must be lined and optimally placed, with automated systems installed so that intake levels and releases can be adjusted remotely. If wai is really going to be stewarded mutually as waiwai, then as a community, we must determine the best mechanisms—a cooperative, public utility, or something else—to manage (or co-manage) larger systems such as the one that takes water from East

Maui streams. And, wells must be optimally (not conveniently) spaced. As decisionmakers and beneficiaries, we must interrogate colonialism’s legacy in Hawai‘i’s water resources, and then redress it.

Eia ka wai a Kāne. Here is the water of Kāne, the water of life.

Note

1. For over a century, water resources were “developed” and then managed for plantation agriculture, principally sugarcane. Massive irrigation systems took water from wet, windward, predominantly Native Hawaiian communities to the drier leeward and central plains of most islands. This significantly damaged the resources themselves, and the natural and human communities relying upon them.

Work Cited

Sproat, D. Kapua‘ala. “Water.” *The Value of Hawai‘i: Knowing the Past, Shaping the Future*, edited by Craig Howes and Jon Osorio, U of Hawai‘i P, 2010, pp. 187–194.

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